

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PIX INTERNATIONAL, LLC

Plaintiff,

- against -

BENEFICIAL BLENDS, LLC

Defendant.

Docket No. \_\_\_\_\_

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Pix International (“Pix” or “Plaintiff”) by and through their undersigned counsel, as and for their Complaint against Defendant Beneficial Blends, LLC (“Blends” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of Erin Heatherton registered by Linda Matlow the owner of Pix, a Chicago based photojournalist. Accordingly, Pix seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant are doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

## **PARTIES**

5. Matlow is a professional entertainment photojournalist in the business of licensing her photographs to online, print, and television stations for a fee, having a usual place of business at 3600 North Lake Shore Drive, 6<sup>th</sup> Floor, Chicago, IL 60613. Matlow has the largest independently owned entertainment photo agency achieve with more than 100,000 images taken since 1978.

6. Upon information and belief, Blends is a corporation duly organized and existing under the laws of the State of Florida, with a principal place of business at 5505 Johns Road, #704, Tampa, Florida. Blends sells coconut oil products to customers through the United States. At all times material hereto, Blends has operated and continues to operate a website at the URL: [www.CoconutOilCooking.com](http://www.CoconutOilCooking.com) (the "Website").

## **STATEMENT OF FACTS**

### **A. Background and Plaintiff's Ownership of the Photograph**

7. On or about September 21, 2010, Matlow took a photograph of Victoria Secret Model Erin Heatherton in Oakbrook, Illinois. A copy of the photograph is attached hereto as Exhibit A.

8. Matlow is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyrights thereto.

9. The Photograph was registered with Copyright Office and was given Copyright Registration Number VAu 1-049-548, effective October 8, 2010.

### **B. Defendant's Infringing Activities**

10. Upon information and belief, Blends ran an article on the Website entitled *Celebrities Who Use Coconut Oil*. See (<http://coconutoilcooking.com/coconut-oil-blog->

posts/tag/celebrities-who-use-coconut-oil/). The article prominently feature the Photograph. Blends did not license the Photograph from Plaintiff for use in its article, nor did Blends have Plaintiff's permission or consent to publish the Photograph on its Website. A screen shot of the Photograph on the Website is attached hereto as Exhibit B.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST BLENDS)**  
**(17 U.S.C. §§ 106, 501)**

11. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-10 above.

12. Blends infringed Plaintiff's copyright in the Photograph by reproducing and publically displaying the Photograph on the Website. Blends is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph on the Website.

13. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyrights and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

14. Upon information and belief, the foregoing acts of infringement by Blends have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

15. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyrights and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b).

16. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

17. Plaintiff further is entitled to its attorney's fees and full costs pursuant to 17 U.S.C. § 505.

18. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Blends be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded her costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

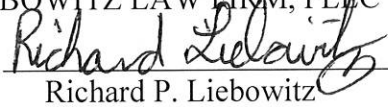
**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
May 16, 2016

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